



## **COUNCIL TAX**

## **DEBT RECOVERY POLICY**

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## Introduction

This policy seeks to set out our approach that will be taken where it is necessary to take action to recover a Council Tax debt owed to the Council. Whilst it sets out our approach, each case will be considered taking account of all circumstances of the debtor and the action we will take will be proportionate to the amount of the debt owed.

The statutory recovery process is clearly set out in the Council Tax (Administration and Enforcement) Regulations and the Council will comply and act at all times within the law.

Additional activity and communications may be taken outside of the statutory process where this is considered appropriate particularly with regard to lower value debts.

We will work closely with debtors and support organisations to reach repayment agreements, wherever possible, that are reasonable and taking account that Council Tax is a priority debt. Some of the support organisations contact details are listed in **Appendix A**.

### 1. Recovery process up to Liability Order stage

- 1.1 We send annual Council Tax bills in mid-March each year. We also send amended bills on a daily basis for accounts where amendments have been made, for example, a change of address or a Council Tax Reduction award.
- 1.2 We offer a number of different payment methods and various dates in the month. Details of the payment and dates are on your bill. We promote payment by Direct Debit, as it is the most efficient payment method. It also helps you to avoid missing instalments and being subjected to recovery action.
- 1.3 All bills include a monthly instalment arrangement and from April 2013, it is possible to arrange to pay over 12 monthly instalments and depending on the amount of Council Tax due, we will offer weekly instalments. If you make regular payments, but not on or before the date the instalment is due, we may still take recovery action, as payments are late.
- 1.4 We have an annual timetable for recovery action and when reminder & final notices and summonses are issued each month.
- 1.5 Depending on the amount owed, if you do not pay an instalment, we will send you a reminder notice. The reminder notice gives you seven days to bring your account up to date by paying the overdue instalment.
- 1.6 If payment is not made, a summons is requested from the Magistrates' Court. Once a summons has been issued, the full amount of Council Tax is due, together with the summons costs.

- 1.7 If the overdue instalment is paid, but a future instalment is missed, a second reminder notice is issued. If you then pay the second overdue instalment, you can continue to pay your account in monthly instalments. However, if you miss a third instalment, we will send you a 'final notice'. This means that you have to pay your annual charge in full, immediately, otherwise a summons is issued.
- 1.8 No more than three notices are issued in any financial year before court action is taken; a maximum of two instalment reminders and one final notice.
- 1.9 If you do not pay as your reminder notice or final notice instructs, a summons is requested from the Magistrates' Court. The summons gives details of when you must attend court to explain why you have not paid your bill. The cost of the summons is added to your bill.
- 1.10 If you pay the full amount of the summons, including costs, before the hearing date, you do not have to attend court. **Our summons costs are currently £65.00.**
- 1.11 If you make a payment arrangement with us before the hearing, you do not have to attend court. However, we will ask the Magistrates' Court to grant a 'Liability Order' to secure the debt (explained below). Providing you keep to the payment arrangement, no further recovery action is taken.
- 1.12 At the court hearing, we must satisfy the Magistrates Court that we have followed the correct procedures that is, sending a bill, reminder notice and summons to your property, or your last known address. We must also confirm that you are liable for Council Tax and that the debt is outstanding. If the Magistrates' Court are satisfied with the evidence we present they grant a Liability Order. **Our Liability Order costs are currently £30.00**
- 1.13 A Liability Order is a decision by the court confirming that you are liable to pay Council Tax and have not done so in accordance with the law. It gives us powers to recover the outstanding debt using other methods. These are explained in more detail below.
- 1.14 The Magistrates' Court may not grant a Liability Order if you can provide a valid defence, such as:
- we have not demanded the Council Tax as the law sets out;
  - you have already paid the amount on the summons;
  - you are not the person liable for Council Tax; or
  - more than 6 years have passed since we sent you a bill for the amount.
- 1.15 It is not a valid defence if you are unable to pay because you:
- have applied for Council Tax Reduction;
  - have appealed to the Valuation Tribunal against your Council Tax valuation band;
  - have a complaint about a council service
  - cannot afford to pay.

The law states that you must pay the amount due.

1.16 A Liability Order gives us the power to:

- ask for financial information including your employment status and employer details that you must provide;
- take money directly from your wage using an Attachment of Earnings Order;
- take money directly from your benefits, for example, Income Support, Jobseekers Allowance, Pension Credit, Employment Support Allowance or Universal Credit;
- use Enforcement Agents to take control of your goods and sell them to pay the debt;
- start bankruptcy proceedings (against individuals)
- start insolvency proceedings (against companies);
- seek a Charging Order against your property;
- start committal proceedings for your imprisonment for up to 90 days.

## **2. Recovery process after Liability Order granted**

### **2.1 Request for financial information**

2.1.1 Once we have a Liability Order we may send you a request for financial information form, asking you to supply details about your income and expenditure.

### **2.2 Attachment of Earnings**

2.2.1 We can instruct employers to make deductions directly from your salary or wages to pay your Council Tax debt.

2.2.2 The amount of the deduction depends on how much you earn. If you have arrears we can make two deductions.

**Table of deductions from monthly earnings for each order issued after 1 April 2009**

<b>Take home (net) wage</b>	<b>Percentage we can deduct</b>	<b>Amount to be deducted</b>
Under £300	0%	Nil
Over £300 but under £550	3%	£9 - £16.47
Over £550 but under £740	5%	£27.50 - £36.95
Over £740 but under £900	7%	£51.80 - £62.93
Over £900 but under £1,420	12%	£108.00 - £170.28
Over £1,420 but under £2,020	17%	£241.40 - £343.23
Over £2,020	17% of the first £2,020 plus 50% of the rest	£343.40 plus 50% of the rest

**Table of deductions from weekly earnings for each order issued after 1 April 2009**

<b>Take home (net) wage</b>	<b>Percentage we can deduct</b>	<b>Amount to be deducted</b>
Under £75	0%	Nil
Over £75 but under £135	3%	£2.25 - £4.02
Over £135 but under £185	5%	£6.75 - £9.20
Over £185 but under £225	7%	£12.95 - £15.68
Over £225 but under £355	12%	£27.00 - £42.48
Over £355 but under £505	17%	£60.35 - £85.68
Over £505	17% of the first £505 plus 50% of the rest	£85.68 plus 50% of the rest

2.2.3 Your employers can deduct a further £1 per order for each time they make a deduction. This is for their administration costs.

2.2.4 Deductions continue until your Council Tax is paid in full.

2.2.5 You must tell us within two weeks of any changes in your employment.

## **2.3 Deductions from benefits**

- 2.3.1 We can ask the Department for Work and Pensions to make deductions directly from your Income Support, Jobseekers Allowance, Employment Support Allowance or Universal Credit.
- 2.3.2 The money deducted is sent to us every 4 weeks and continues until your Council Tax is paid in full, or your benefit entitlement stops.
- 2.3.3 You must tell us within two weeks of any changes in your benefit entitlement.

## **2.4 Enforcement Agent action**

- 2.4.1 We may instruct Enforcement Agents to take control of your goods and sell them to settle the outstanding Council Tax.
- 2.4.2 For further information about Enforcement Agents, please refer to our policy.

## **2.5 Insolvency / Bankruptcy action**

- 2.5.1 We may decide to take insolvency / bankruptcy action against you if the total debt you owe to the Council is more than £5,000. If the court declares you bankrupt you could lose your home and possessions to pay the debts and have to pay significant additional costs on top of the Council Tax debt that is owed to the Council.
- 2.5.2 We send you a letter warning of insolvency / bankruptcy proceedings and give you a last chance to pay before bankruptcy action starts.
- 2.5.3 If you do not make an agreed payment, we serve a 'Statutory Demand' on you. This is the first formal stage in a process that may lead to bankruptcy.
- 2.5.4 If you do not agree a payment arrangement after the service of a Statutory Demand, or if the court does not set your case aside, we then serve you with a bankruptcy petition.
- 2.5.5 We advise all customers in this position to seek independent legal advice (Citizens Advice or a solicitor).

## **2.6 Charging Orders**

- 2.6.1 If you own your property we may decide to apply for a Charging Order to be placed on it. This is similar to a mortgage and means we can recover outstanding debt from the proceeds of sale if the property is sold at a later date.

2.6.2 Once the Charging Order has been granted against a property, we can ask the court for an order to evict you and enforce the property's sale to recover the money owed.

## 2.7 Committal proceedings

2.7.1 We may take committal proceedings against you if you do not try to clear your debt. This means you could go to prison for the non-payment of Council Tax.

2.7.2 If the Enforcement Agents have been unable to remove goods to pay for your debt, or if we think other recovery options are inappropriate, we can ask the Magistrates' Court to issue a summons or warrant to attend a committal hearing. This means that we ask the Magistrates' Court to decide whether to send you to prison for not paying your Council Tax.

2.7.3 At the hearing, our representative will confirm to the Magistrates' Court that a Liability Order has been granted and that the Enforcement Agents have either been unsuccessful in removing your goods or you do not have goods of sufficient value to clear the debt. The Magistrates' Court then asks you why you have not paid your Council Tax bill and decides whether you have failed to pay due to 'wilful refusal' or 'culpable neglect'.

2.7.4 The Magistrates Court asks you questions about your income and expenditure. This is called a 'means enquiry'. It helps the court decide whether you have been guilty of wilful refusal or culpable neglect.

2.7.5 There are several decisions the Magistrates Court can make:

<b>Court order with suspended sentence</b>
You could be sentenced to a term of imprisonment but this sentence will be suspended provided you keep to the conditions of the suspension. This is usually an order to pay a set amount to clear the debts. If you fail to do what is ordered by the Magistrates' Court the Council will apply for you to be brought back to court for the prison sentence to be enforced.
<b>Court order without a suspended sentence</b>
You could be ordered to pay a set amount. If you do not keep up the payments, you are ordered to come to court again to explain why you have not paid. The Magistrates Court will then decide what to do next. The Council will apply for the order to be backed by a suspended sentence.
<b>Write off all or some of the debt</b>
The Magistrates' Court can write off all or some of the Council Tax you owe, if they feel the situation deserves this. If only some of the debt is written off, the Magistrates' Court may make a Court Order for the rest.
<b>Take no action</b>
The Magistrates' Court may decide that no further action is appropriate.



<b>Adjournment</b>
If more information or evidence is needed before a decision can be made, your case can be postponed until a later date.
<b>Committal to prison</b>
The Magistrates' Court can decide to send you immediately to prison for up to 90 days.

- 2.7.6 If you do not appear in court, we ask the Magistrates' Court to issue a warrant for arrest. This means that a Warrant Officer can arrest you to appear in court at a later date.
- 2.7.7 When you then appear in court, the process outlined in points 2.7.3 to 2.7.7 will be followed.
- 2.7.8 If you do not appear at court after being bailed, we ask the Magistrates' Court to issue a Warrant for your arrest without bail. In this case, a Warrant Officer can arrest you and take you to police custody or straight to the Magistrates' Court to appear in front of the District Judge.

### **3. Partners and Service Providers**

- 3.1 We work in partnership with a number of partners and service providers to recover unpaid council tax and support us in the work we undertake.
- 3.2 Our partners and service providers support us in the following areas of recovery:
  - Enforcement Agents enforcement and debt collection
  - Tracing services
  - Process serving
  - Warrant execution
  - Insolvency advice and proceedings
  - Money and debt advice
  - Digital communication services
- 3.3 All of our partners and service providers work with us to agreed policies, procedures and ways of working.

### **4. Hardship**

- 4.1 The Council is committed to reducing poverty and hardship and ensuring benefits and other income is maximised. We will advise you where you can go to get advice and help.

4.2 If you experience considerable financial hardship or have multiple arrears we will look at your case on its own merit and may agree an extended payment arrangement looking at all your debts. We will always expect you to pay your current years' Council Tax plus an amount towards the arrears.

If you fail to pay as arranged, further recovery action is taken.

**5. Debt write off**

5.1 We have an agreed procedure for writing off Council Tax debts, provided that the debt is considered unrecoverable. For example, in circumstances where we are unable to trace the customer, or if they have died without assets.

**6. Multiple debts**

6.1 If you owe money to multiple council departments, with your agreement and where possible, we will consolidate the debts in order to agree one manageable repayment plan.

**7. Costs**

7.1 We do charge costs where we have to take action to recover unpaid Council Tax.

7.2 Details of these costs are:

<b>Costs in 2020/2021</b>		
Summons	Council Tax	£65.00
Liability Order	Council Tax	£30.00
Enforcement Agents	Compliance stage	£75.00
	Enforcement stage	£235.00 plus 7.5% for debts off £1500 or over
	Sale and Disposal of goods	£110 plus 7.5% for debts off £1500 or over
Warrant fees	Arrest Warrant	Bail Warrant £40.00 No Bail £80.00 Committal £120.00

**APPENDIX A**

<b>Name / Organisation</b>	<b>Nature of services provided</b>	<b>Contact details</b>
Cambridge House Law Centre	Provides specialist level casework and representation. Daily reception service for information, advice and signposting.	<p><b>Cambridge House</b>  <b>1 Addington Square</b>  <b>Camberwell</b>  <b>London SE5 0HF</b></p> <p><b>Tel: 020 7358 7000</b>  <b>Email: lawcentre@ch1889.org</b>  <b>www.ch1889.org</b></p>
<p>Bermondsey Citizens Advice</p> <p>Peckham Citizens Advice</p>	<p>Citizens Advice provides information and generalist advice on all subjects and specialist advice in immigration, welfare benefits and debt.</p> <p>Citizens Advice Southwark also provide outreach services in hospital settings for people affected by cancer funded by Macmillan Cancer Support and Dimbleby Cancer Care.</p> <p>Citizens Advice Southwark are the lead partner for the Southwark Legal Advice Network.</p>	<p><b>Bermondsey:</b>  <b>8 Market Place</b>  <b>Southwark Park Road</b>  <b>London SE16 3UQ</b></p> <p><b>Peckham:</b>  <b>97 Peckham High Street</b>  <b>SE15 5RS</b></p> <p><b>Walworth:</b>  <b>6-8 Westmoreland Road</b>  <b>Walworth</b>  <b>London SE17 2AY</b></p> <p><b>Tel: 0344 499 4134</b>  <b>www.citizensadvicesouthwark.org.uk</b></p>
London Mutual Credit Union	Credit Unions are not-for-profit co-operatives aiming to provide affordable financial services for members of the local community	<p><b>Walworth Road:</b>  <b>177 Walworth Road</b>  <b>London SE17 1RW</b></p> <p><b>Peckham:</b>  <b>4 Heaton Road</b></p>

		<p><b>Peckham</b>  <b>London SE15 3TH</b></p> <p><b>Tel: 020 3773 1751</b>  <b>Email: help@creditunion.co.uk</b></p>
Equita Ltd	Enforcement Agents	<p><b>Equita Ltd</b>  <b>42-44 Henry Street</b>  <b>Northampton NN1 4BZ</b></p> <p><b>Tel: 01604 628 360</b>  <b>Email: info@equita.co.uk</b>  <b>www.equita.co.uk</b></p>
Newlyn PLC	Enforcement Agents	<p><b>Newlyn PLC</b>  <b>PO Box 933</b>  <b>Northampton NN1 9DX</b></p> <p><b>Tel: 01604 633001</b>  <b>Email: enquiries@newlynplc.co.uk</b>  <b>www.newlynplc.co.uk</b></p>
Rundles & Co Ltd	Enforcement Agents	<p><b>Rundles &amp; Co Ltd</b>  <b>53 Northampton Road</b>  <b>Market Harborough</b>  <b>Leicestershire LE16 9HB</b></p> <p><b>Tel: 08456 585 030</b>  <b>Email: info@rundles.org.uk</b>  <b>www.rundles.org.uk</b></p>
CDER Group	Enforcement Agents	<p><b>CDER Group</b></p> <p><b>Tel: 0330 107 0023</b>  <b>Email: info@cdergroup.co.uk</b>  <b>www.cdergroup.co.uk</b></p>
Dukes Bailiffs Ltd	Enforcement Agents	<p><b>Dukes Bailiffs Ltd</b>  <b>Dukes Court</b>  <b>7-8 Newcastle Street</b>  <b>Stone</b>  <b>Staffordshire ST15 8JT</b></p>

		<b>Tel: 01785 825 500</b> <b>Email: <a href="mailto:info@dukeslimited.co.uk">info@dukeslimited.co.uk</a></b> <b><a href="http://www.dukesdebtonline.co.uk">www.dukesdebtonline.co.uk</a></b>
Croydon Magistrate's court	Court services	<b>Barclay Road</b> <b>Croydon</b> <b>CR9 3NG</b>  <b>Tel: 020 8686 8680</b>